

**MINUTES
OF THE FORT MADISON CITY COUNCIL**

Tuesday, August 18, 2009 7:00 P.M.
Municipal Building, 811 Avenue E, Fort Madison, Iowa

The Fort Madison City Council met in adjourned session on Tuesday, August 18, 2009, at 7:00 P.M. at the Municipal Building, 811 Avenue E, Fort Madison, Iowa. Presiding was Mayor Steven J. Ireland with Councilmen Chris Greenwald, Kevin Rink, Brad Randolph, Bob Chesnut, Neal Boeding and Mark Lair present. Councilor Carrie Fraise was absent.

AGENDA

Lair MOVED and Rink SECONDED to approve the agenda, as written.

MOTION PASSED 6 AYES

CONSENT AGENDA

Chesnut MOVED and Randolph SECONDED to approve:

- Minutes of August 4, 2009; as written;
- Mayor's appointments to the Library Board of Trustees of Ron Welder, 2220 Avenue A, filling the unexpired term of Aarin Guzman, term expiring July 1, 2012; Russ Savage, 1901 Avenue E, filling the unexpired term of Elaine Eschman, term expiring July 1, 2014; and Andy Walljasper, 419 Avenue A, filling the unexpired term of Roger Sirois, term expiring July 1, 2012;
- New Five-Day Class "C" Liquor License to the Mexican Fiesta, 3411 Avenue Q, effective September 16, 2009;
- New Five-Day Class "C" Liquor License to Holy Trinity Catholic Schools for the Rodeo Arena (Main Beer); New Five-Day Class "C" Liquor License to Holy Trinity Catholic Schools for the Rodeo Arena (Arena Beer); New Five-Day Class "B" Beer Permit to Holy Trinity Catholic Schools for the Rodeo Arena (West Beer); and New Five-Day Class "B" Beer Permit to Holy Trinity Catholic Schools for the Rodeo Arena (East Beer), all effective September 9, 2009; and
- Payment of Claims.

MOTION PASSED 6 AYES

PUBLIC HEARING

Mayor Ireland opened the public hearing at 7:05 P.M. concerning rezoning property located at 1510 – 18th Street from I-1, Limited Industrial, to I-2, General Industrial. Bryan Humphrey, 732 Avenue G, spoke that he represented the Feinbergs and was present tonight for any questions that Council may have. There being no further oral or written comments, Lair MOVED and Rink SECONDED to close the public hearing.

MOTION PASSED 6 AYES

1ST READING, ORDINANCE REZONING 1510 – 18TH STREET: Chesnut MOVED and Boeding SECONDED to approve the 1st reading of an ordinance rezoning property located at 1510 – 18th Street from I-1, Limited Industrial, to I-2, General Industrial.

Lair began by asking if this would allow the Feinbergs to run the salvage yard at their new location. It will, but they will still have one more step with the Special Use Permit.

City Attorney Johnson then addressed Council concerning this issue. In the Consent Agreement with Feinbergs, one of the things agreed to was this ordinance rezoning the property to I-2. There is a fairly long history of litigation between the City and Feinbergs. He went on to talk about the encroachments that occurred at Feinbergs' former location. At the new location, encroachments are less likely to happen because they are not bound by City appurtenances. The new area has natural buffers and where there is railroad, the railroad is diligent about keeping their right-of-way clear. All parties agreed it was a good thing to allow Feinbergs to operate the business at the new location and rezone that property with an ordinance change. All items requested to be done in the Consent Agreement have been done.

Randolph inquired if the Feinbergs could go back to Block 10 after awhile. Johnson answered no, and after a period of time that property would revert back to its zoning classification prior to being grandfathered in. Randolph continued that the "rub" is after 12 months if they put junk there, they could be considered to be operating. Zoning Director Doug Krogmeier answered they would actually have to be in operation at that location. Randolph felt that by giving them the Special Use, it would give Feinbergs carte blanche to do whatever they want to do again and the City would have no recourse. He further felt the area abandoned by Feinbergs needed further cleaning. He had a problem with giving them the Special Use with no limitations or restrictions attached.

Mr. Johnson reminded them that the Special Use would be given to them subject to all Federal, State, County and City rules and regulations. Randolph said he was not opposed to the business as it is a necessary business, but there has been a history there we cannot overlook. Mr. Johnson stated the problems Randolph was talking about is tied to the old location. The new locations has ample space to grow with natural buffers on the east, west and south. If the business should go north that will become a private issue with the railroad and not the City.

Randolph referred to the property the Feinbergs say they have cleared off, but are not maintaining. Mr. Johnson stated we have a permanent restraining order against them that covers Blocks 11 and 5. Greenwald then asked if the buildings on that lot were part of the agreement. The agreement was just to clear the salvage items. If the building becomes a nuisance the City can address that. Randolph continued the building is half there and is a safety hazard and should come down. He wanted to know that the old property would be managed and brought into the agreement. Mr. Johnson advised there was a permanent injunction and Feinbergs cannot violate it. He further went into the background of the Feinberg property since 1968.

Randolph inquired if it was possible for Planning & Zoning or Board of Adjustment to stipulate on the Special Use to finish what they started on Blocks 5, 10, and 11 and get it back to an acceptable level; he would like them to finish what they started and get the area in better condition than it is. Mr. Johnson said the Board of Adjustment can put conditions on Special Use Permits. Council can make recommendations to them. Mr. Humphrey and Mr. Johnson will work together on this.

MOTION PASSED 6 AYES

2ND READING, PARKING ORDINANCE AMENDMENTS: Rink MOVED and Greenwald SECONDED to approve the 2nd reading of an ordinance amending City Code Sections 9-7-9 (Ten Minute Parking); 9-7-18 (Handicap Parking); and 9-7-20 (Reserved Parking Spaces).

MOTION PASSED 6 AYES

RESOLUTION NO. 2009-63, CLOSING 19TH AND AVENUE N CROSSING: Lair MOVED and Greenwald SECONDED to approve a resolution closing the 19th Street and Avenue N railroad crossing, and approve the Mayor's signature on an Agreement with the BNSF Railway to close the crossing.

Rink referred to the public hearing held in the affected area. He wanted to be positive everyone had been contacted and it was okay to go forward. City Manager Smith was confident that the City had done what they could and everyone was in favor of closing the crossing. Lair questioned the cost of the signage to close the crossing. Steve Hayes advised it would probably be less than \$500.

MOTION PASSED 6 AYES

RESOLUTION NO. 2009-64, SUPPORTING CLG GRANT: Chesnut MOVED and Boeding SECONDED to approve a resolution authorizing the Mayor's signature on a CLG grant for a residential historic district study from Old Settlers Park to Central Park, and for a cash match expenditure from the City in the amount of \$2,640 for said grant.

Andy Andrews, 2020 Avenue G, Chairperson, spoke on behalf of the Historic Preservation Commission. This will allow them to place another district on the registry. The Commission will be raising money also. Our area is after tourism dollars and encourages owners to keep their properties up. It will allow property owners to get tax credits and apply for grants. It was asked where this cash match would come from. Mr. Smith advised \$32,000 had been set aside to tear down a building in the 800 block of Avenue G. We can take this amount from that account.

PRESENTATIONS BY LIAISONS TO BOARDS AND COMMISSIONS

Nothing remarkable to report.

ADJOURNMENT

At 7:35 P.M., Randolph MOVED and Rink SECONDED to adjourn until Tuesday, September 1, 2009.

VOICE VOTE APPROVAL